

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOHNNY JONES,

Plaintiff,

v.

BARTH, *et al.*,

Defendants.

Case No. 3:21-cv-00028-MMD-CSD

ORDER

Pro se Plaintiff Johnny Jones brings this action under 42 U.S.C. § 1983. Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Craig S. Denney (ECF No. 78), recommending that the Court dismiss this action with prejudice and deny as moot Defendants’ pending motions (ECF Nos. 69, 70). Plaintiff had until May 23, 2023, to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R, but will dismiss this action without prejudice.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Because there is no objection, the Court need not conduct *de novo* review; it is satisfied Judge Denney did not clearly err. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003); Fed. R. Civ. P. 72, Advisory Committee Notes (1983).

Here, Judge Denney recommends dismissing this action under Federal Rule of Civil Procedure 41(b) and Local Rule IA 3-1 because Plaintiff has failed to update his contact information or otherwise indicate his intent to continue prosecuting this action. (ECF No. 78 at 2-3.) *See also* Fed. R. Civ. P. 41; LR IA 3-1 (requiring an attorney or *pro se* party to “immediately” notify the Court of any changes in contact information, and

1 authorizing “dismissal of the action . . . or other sanctions as deemed appropriate by the
2 court” if a party fails to comply); *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1998)
3 (outlining a five-factor test to apply in determining whether to dismiss a *pro se* plaintiff’s
4 action under Rule 41(b)); *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002) (“It is
5 incumbent upon the Court to manage its docket without being subject to routine
6 noncompliance of litigants[.]”) (citation omitted). In weighing the five *Carey* factors, Judge
7 Denney concluded that most factors weigh in favor of dismissal under Rule 41(b) and LR
8 IA 3-1. (*Id.* at 3.) See also *Carey*, 856 F.2d at 1440. Despite previously having filed a
9 notice of change of address (ECF No. 59), Plaintiff has failed to timely file a subsequent
10 notice of change of address (ECF Nos. 76 at 1, 78 at 2.) Moreover, Judge Denney had
11 warned Plaintiff in a previous order that “failure to comply with [LR IA 3-1] may result in
12 dismissal of the action or other sanction[s] deemed appropriate by the court.” (ECF No.
13 76 at 1 (citing LR IA 3-1).) The Court agrees with Judge Denney. Having reviewed the
14 R&R and the record in this case, the Court adopts the R&R.

15 It is therefore ordered that Judge Denney’s Report and Recommendation (ECF
16 No. 78) is accepted and adopted.

17 It is further ordered that this action is dismissed without prejudice.

18 It is further ordered that Defendants’ pending motions (ECF Nos. 69, 70) are
19 denied as moot.

20 It is further ordered that the Clerk of Court enter judgment accordingly and close
21 this case.

22 DATED THIS 6th Day of June 2023.

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MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE